

1 **AN ORDINANCE TO AMEND CHAPTER 62, ARTICLE III, §§**
2 **62-7 AND 62-8B. AND CHAPTER 99, §§ 99-14 AND 99-39 OF THE**
3 **CODE OF SUSSEX COUNTY RELATING TO THE**
4 **ESTABLISHMENT OF FEES IN THE ANNUAL BUDGET.**

5
6 WHEREAS, Sussex County Code, Chapter 62, Article III., “Building
7 Fees”, § 62-7 establishes a schedule of fees to be charged for various
8 permits, and applications for buildings and the like; and

9
10 WHEREAS, Sussex County Code, Chapter 62, Article III., “Building
11 Fees”, § 62-8 establishes inspection fees to be charged for manufactured
12 homes; and

13
14 WHEREAS, Sussex County Code, Chapter 99, Article II., “Plan
15 Submission Procedure”, § 99-14 establishes fees to be charged as part of
16 the process; and

17
18 WHEREAS, Sussex County Code, Chapter 99, Article VIII.,
19 “Enforcement Amendments; Appeals”, § 99-39F. establishes fees to be
20 charged for filing an appeal; and

21
22 WHEREAS, Sussex County desires to amend Sussex County Code,
23 Chapter 62, Article III., §§ 62-7 and 62-8, and Chapter 99, Article II, §
24 99-14 and Article VIII, § 99-39F., by providing that all fees referenced
25 therein shall be set forth in a Schedule of Fees that shall be adopted the
26 Sussex County Council as part of the Annual Budget for each fiscal year
27 commencing with FY2023.

29 **NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY**
30 **ORDAINS:**

31
32 **Section 1. Sussex County Code, Chapter 62, Article III, § 62-7,**
33 **entitled, “Fees for permits and applications”, is hereby amended by**
34 **adding the underlined and italicized language and deleting the**
35 **bracketed language as follows:**

36
37 **§ 62-7 Fees for permits and applications.**

38
39 The schedule of fees for permits and applications for buildings and the
40 like shall be as hereinafter indicated:

41
42 A. Building and zoning permits.

43
44 (1) The fee charged for permits shall be based upon standard
45 construction values for the type of construction as provided
46 by Marshall & Swift, or modified by the Building Official, as
47 defined in Chapter 52 of the Sussex County Code, for
48 particular applicability to Sussex County. Standard
49 construction values shall be revised in January of each year to
50 reflect changes in construction prices indices. The Building
51 Official shall acquire input and shall consult with local
52 building industry representatives prior to the termination of
53 the standard construction values.

54
55 (2) [Seven dollars and fifty cents for the first thousand; \$3 for
56 each thousand thereafter]The fee for properties not within
57 incorporated municipalities that have their own Zoning Code

58 shall be included in the schedule of fees adopted as part of the
59 annual Sussex County budget.

- 60
- 61 (3) [Five dollars for the first thousand; \$2 for each thousand
62 thereafter]The fee for properties within incorporated
63 municipalities that have their own Zoning Code shall be
64 included in the schedule of fees adopted as part of the annual
65 Sussex County budget.

66

67 B. Manufactured home placement permits.

68

- 69 (1) [Seven dollars and fifty cents for the first thousand; \$3 for
70 each thousand thereafter]The fee for properties not within
71 incorporated municipalities that have their own Zoning Code
72 shall be included in the schedule of fees adopted as part of the
73 annual Sussex County budget.

- 74
- 75 (2) [Five dollars for the first thousand; \$2 for each thousand
76 thereafter] The fee for properties within incorporated
77 municipalities that have their own Zoning Code shall be
78 included in the schedule of fees adopted as part of the annual
79 Sussex County budget.

80

81 C. Sign permits:

82

- 83 (1) A construction permit fee is required[shall be charged at a
84 rate of \$0.50 per square foot, with a minimum charge of \$25
85 per sign for signs larger than 32 square feet.]and shall be

86 included in the schedule of fees adopted as part of the annual
87 Sussex County budget.

88
89 (2) Annual or one-time fees are required[shall be charged at a
90 rate of \$0.25 per square foot, with a minimum charge of \$25
91 per sign for signs larger than 32 square feet. A one-time fee
92 of \$7.50 will be charged for signs 32 square feet or smaller].
93 These fees shall be included in the schedule of fees adopted
94 as part of the annual Sussex County budget.

95
96 D. Board of Adjustment.

97
98 (1) Special use exception for manufactured homes: [\$400]This
99 fee shall be included in the schedule of fees adopted as part
100 of the annual Sussex County budget.

101
102 (2) Other special use exceptions: [\$400]These fees shall be
103 included in the schedule of fees adopted as part of the annual
104 Sussex County budget.

105
106 (3) Variances: [\$400]These fees shall be included in the schedule
107 of fees adopted as part of the annual Sussex County budget.

108
109 E. Change of zone: [\$500]These fees shall be included in the schedule
110 of fees adopted as part of the annual Sussex County budget.

F. Conditional use: [\$500]*These fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

G. Demolition fee: [no charge]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

H. Site plan review fee.

(1) Multifamily residential: [\$50 minimum, plus \$2 per dwelling unit in excess of 10 dwelling units]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

(2) Commercial: [\$50 minimum, plus \$2 per 1,000 square feet in excess of 4,000 square feet of gross floor area, including outside sales display and storage area]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

(3) Industrial and private institutional: [\$50 minimum, plus \$2 per 1,000 square feet in excess of 4,000 square feet of gross floor area, including outside sales display and storage area]*This fee shall be included in the schedule of fees adopted as part of the annual Sussex County budget.*

(4) Manufactured home parks and parks or campgrounds for mobile campers and tent camping: [\$50 minimum; plus \$2 per site in excess of 10 manufactured home or camp sites]*This fee*

140 shall be included in the schedule of fees adopted as part of the
141 annual Sussex County budget.

142
143 I. Cluster fee [as required by § 115-25B(3) and F(3)].*¹ The Council
144 will review the fees for a density bonus under the terms of this act
145 on an annual basis and revise such fees as it deems necessary. This
146 fee shall be included in the schedule of fees adopted as part of the
147 annual Sussex County budget.

148
149 (1) For the town centers and developing areas around
150 Greenwood, Bridgeville, Seaford, Blades, Laurel, and
151 Delmar, [\$15,000 per unit in excess of two dwelling units per
152 acre]this fee shall be included in the schedule of fees adopted
153 as part of the annual Sussex County budget.

154
155 (2) For the town centers and developing areas around Milford,
156 Milton, Ellendale, Georgetown, Millsboro, Dagsboro,
157 Frankford and Selbyville,[\$15,000 per unit in excess of two
158 dwelling units per acre] this fee shall be included in the
159 schedule of fees adopted as part of the annual Sussex County
160 budget.

161
162 (3) For the Coastal Area, [\$20,000 per unit in excess of two
163 dwelling units per acre]this fee shall be included in the
164 schedule of fees adopted as part of the annual Sussex County
165 budget.

¹ The brackets contained in Line 143 do not indicate removal of language. The bracketed language is set forth as such in the current Sussex County Code.

Section 2. Sussex County Code, Chapter 62, Article III, § 62-8B., entitled, “Filing of application; inspection fee”, is hereby amended by adding the underlined and italicized language and deleting the bracketed language as follows:

A. No person shall construct or commence construction of a building or place a manufactured home, either in whole or in part, without first filing with the Sussex County Assessment Division an application, in writing, for such construction or placement and obtaining a permit therefor. Such application shall be made on forms prescribed by the Assessment Division and shall contain such information as the Assessment Division shall require. The application for permit shall also contain a site plan or sketch showing the location on the lot and a general description of the type of structure. Responsibility for a violation of this section shall rest upon the record title owner of the property at the time the construction was commenced or a manufactured home placed.

B. Inspection fee.

(1) In addition to the fees currently charged for the placement and installation of a manufactured home, the Assessment Division shall also charge a fee for the inspection of foundation footers and tie downs to be paid at the time a placement permit is issued for a manufactured home as follows:

(a) [The sum of \$120, which]*An initial inspection fee* shall entitle the owner to up to three inspections. The first inspection shall be of the footers, which must be passed before the foundation can be installed. The second

inspection shall be of the tie downs, which must be passed before a certificate of occupancy is issued by the County. In the event the County does not approve the footers and/or tie downs on their first inspection, the Assessment Division shall conduct a third inspection without the payment of an additional fee. However, if the required inspections have not resulted in the approval of the footers and tie downs after three inspections, an additional fee [of \$40]shall be charged for each additional inspection prior to the issuance of a certificate of occupancy and any such additional inspection beyond the first three shall be paid for prior to the issuance of the certificate of occupancy. All inspection fees shall be included in the schedule of fees adopted as part of the annual Sussex County budget.

- (2) Effective date. The obligation of the County to perform the footer and tie down inspections and the obligation of the property owner to pay the inspection fee shall become effective on January 1, 2007.

Section 3. Sussex County Code, Chapter 99, Article II, § 99-14, entitled, “Fees”, is hereby amended by adding the underlined and italicized language and deleting the bracketed language as follows:

§ 99-14 Fees.

Fees to partially cover the cost of considering, examining and checking the plats required herein and for recording the final plat shall be collected at the time of filing the plans in accordance with the following schedule of charges:

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228 A. A fee [of \$500]shall accompany an application under this chapter,
229 and the subdivider shall also reimburse the County prior to any
230 public hearing for the cost of preparing and giving of notice. These
231 fees shall be included in the schedule of fees adopted as part of the
232 annual Sussex County budget.

233

234 B. Final plat.

235 (1) [Ten dollars per lot.]These fees shall be included in the
236 schedule of fees adopted as part of the annual Sussex County
237 budget.

238

239 (2) For each individual copy (one sheet) of the final plat to be
240 recorded: The Sussex County Recorder of Deeds fee shall be
241 paid by the subdivider.

242

243 **Section 4. Sussex County Code, Chapter 99, Article VIII, § 99-39F.,**
244 **entitled, “Enforcement Amendments; Appeals”, is hereby amended**
245 **by adding the underlined and italicized language and deleting the**
246 **bracketed language as follows:**

247

248 **§ 99-39Appeals.**

249

250 A. No preliminary plat shall be acted upon by the Commission without
251 affording a hearing thereon as outlined in 9 Del. C. § 6812 and after
252 notice of the time and place of the hearing shall be sent by registered
253 mail to the applicant not less than five days before the date fixed
254 for the hearing. Following said hearing any approval or disapproval

of the preliminary plat by the Commission may be appealed to the County Council within 30 days of the official action of the Commission approving or disapproving the preliminary plat. As provided in 9 Del. C. § 6811, an appeal may be filed by a party aggrieved by either the approval or the disapproval of a preliminary plat.

B. If the appellant is aggrieved by the decision of the Commission, he may appeal that decision to the County Council within 30 days of the official action of the Commission. In such event, the appeal shall be an appeal on the record of the hearing before the Commission and the notice of appeal shall be on a form provided by the Office of Planning and Zoning and shall specify the grounds therefor and the appellant shall pay the appeal fee hereafter provided. In respect to an appeal to the Council from a decision of the Commission, the following procedures shall apply:

(1) Within 30 days following the filing of the appeal to the Council, it shall be the responsibility of the appellant to pay the costs to have a certified court reporter prepare a verbatim transcript of the hearing record before the Commission at the appellant's expense and to file said transcript with the Clerk of County Council. If the transcript is not filed within said thirty-day period, the appeal shall be dismissed and the appellant shall be notified of the dismissal by letter from the Clerk.

(2) The Council shall review the record of the hearing before the Commission and shall make a determination as to whether the Commission's decision was the result of an orderly and logical review of the evidence and involved the proper

interpretation and application of the chapter. If the Council finds that the Commission misapplied or misinterpreted the applicable sections of this chapter or that its findings were not the result of an orderly and logical review of the evidence and the applicable provisions of this chapter:

(a) The Council may send the matter back to the Commission for further review and consideration and, if the Council considers it necessary, it may direct that the Commission hold a new hearing, specify the time period within such hearing shall be held and direct the Commission to issue a written decision containing findings and conclusions following the rehearing.

(b) The Council may reverse a decision only upon a finding that the Commission made an error in its interpretation of the applicable sections of this Chapter; or the Commission's findings and conclusions were not the result of an orderly and logical review of the evidence and the applicable provisions of this chapter.

(c) Within 60 days from the receipt of the transcript, the Council shall act on the record of the hearing before the Commission and the Council shall not hold an additional public hearing.

C. Any party aggrieved by the decision of the Council may appeal to the appropriate court, but only after all remedies made available

under this chapter have been exhausted. Such appeals shall be to the Superior Court in the same manner as appeals from decisions of the Board of Adjustment as specified in 9 Del. C. § 6918.

D. The standard of review to be applied by the Council is that a decision approving or disapproving a plat shall be upheld unless the appellant can demonstrate that the Commission made an error in its interpretation of the applicable sections of the Subdivision Ordinance and/or that the Commission's findings and conclusions were not the result of an orderly and logical review of the evidence and the applicable provisions of the Subdivision Ordinance.

E. Appeals to the Council shall not be based on new or revised subdivision plans that were not presented to the Commission prior to the plat being approved or denied or to appeal a condition imposed by the Commission.

F. The fee for filing an appeal to Council shall be included in the schedule of fees adopted as part of the annual Sussex County budget[\$500] and shall be payable to the Clerk of Council on the date of filing the notice of appeal.

G. This amended appeal procedure shall apply to any preliminary plat applied for after the date of adoption of this amendment.

H. An applicant may request in writing that the Commission reconsider a condition imposed by the Commission but there shall be no appeal from the decision of the Commission on such request.

Section 5. Effective Date. This Ordinance shall become effective upon its adoption.

Synopsis

This Ordinance amends Chapter 62, Article III. § 62-7 and § 62-8, and Chapter 99, Article II, § 99-14 and Article VIII, § 99-39F., by providing that all fees referenced therein shall be set forth in a Schedule of Fees that shall be adopted by the Sussex County Council as part of the Annual Budget for each fiscal year commencing with FY2023.

Deleted text is in brackets, with the exception of the bracketed language on page 6, line 143 which is set forth as such in the current Sussex County Code and is not being deleted. Additional text is italicized and underlined.